

# Notice of Allowability

Application No.

09/707,765

Examiner

Douglas Q. Tran

Applicant(s)

SOEDA ET AL.

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--.

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04/04/06.
2. ☒ The allowed claim(s) is/are 6-9 and 13 renumbered as 1-5.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 10/26/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

DOUGLAS Q. TRAN  
PRIMARY EXAMINER

*Tran*

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In Response to Restriction/Election filed on 01/27/05, Applicant elected group II, claims 6-9 and 13, for further prosecution without traverse. Therefore, Group I, claims 2-5, 12, and group III, claims 10, 11 and 14-22, would be canceled and Applicant reserves the right to file a Divisional Application directed to non-elected Species.

In Response to Restriction/Election filed on 04/04/06, Applicant elected Group I, claims 6, 7, 9 and 13. However, claim 8 depends on claim 6, the Examiner rejoins claim 8 to group I. Therefore, Group I now includes claims 6-9 and 13 for further prosecution. Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement between Group I and other new Groups II, III and IV, the election has been treated as an election without traverse (MPEP § 818.03(a)). Therefore, Groups II, III and IV, claims 23-28, would be canceled.

The application has been amended as follows:

Cancel claims 2-5, 10-12, and 14-28.

### *Allowable Subject Matter*

2. Claims 6-9 and 13 are allowed.

Claim 6 is independent claim.

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As to claim 6, the reasons for allowance based on the applicant's statement (i.e., Remarks) filed on 12/13/05 from pages 9-11.

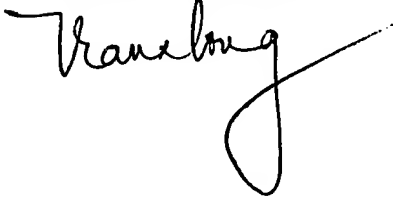
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Contact information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas Q. Tran whose telephone number is (571) 272-7442.

July 25, 2007

**DOUGLAS Q. TRAN  
PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Tran', with a long, sweeping horizontal stroke extending to the right.